

CHARLOTTE TOWN CLERK'S OFFICE

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Town of Charlotte
Attest [Signature] Town Clerk Zoning Board of Adjustment

In Re: ZBA-17-23-CU Conditional Use Review for Christina and Matt Moulton to build a replacement home located at 754 Ethan Allen Highway in the Town of Charlotte (M02B01L27).

I. Introduction and Procedural History

On February 23, 2016, Shawn Sweeney of Sweeney DesignBuild, LLC on the behalf of Christina and Matt Moulton (the property owners) submitted an application for conditional use review to construct a replacement house to be built in the same site as a smaller formerly existing house. The project is located at 754 Ethan Allen Highway within the Route 7 Scenic Overlay district.

Public notification was accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper March 30, 2017; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on March 28, 2017. Further notification was issued to the adjoining property owners regarding the public hearing by direct correspondence at least 15 days prior to the public hearing held on Wednesday April 19, 2017 at the Town offices at 159 Ferry Road in the Town of Charlotte.

A site visit to the property was conducted April 19 at 6:00pm. Present at the visit were the following members of the Zoning Board of Adjustment (ZBA); Frank Tenney (Chair), Stuart Bennett, Matt Zucker, and Jonathan Fisher. Project representative Shawn Sweeney and Charlotte Town staff Daryl Benoit were present during the visit. The application was considered by the ZBA at 7:00pm after the site visit.

The ZBA reviewed the application under the Charlotte Land Use Regulations, 2016 and the 2016 Charlotte Town Plan. Application materials included a signed application form; an application fee; list of adjoining property owners; a set of floor plans and side elevations property designed by Sweeney DesignBuild, LLC (dated February 17, 2017); and a set of photos of the property.

All previously listed materials relevant to the review of the project were posted on the Town of Charlotte Planning & Zoning Office website at the following link: <https://is.gd/cpPZM3>.

II. Exhibits

The following exhibits were utilized for the decision:

- 1. Zoning Board of Adjustment minutes from the meeting held on April 19, 2017
- 2. 2016 Lister File for 754 Ethan Allen Highway

III. Standard of Review

The application requires review under the following sections of the Land Use Regulations for the Town of Charlotte (Approved March 1, 2016):

1. Chapter II, Section 2.3, Table 2.5(E) – Application of District Standards; Rural District (RUR); Dimensional Standards
2. Chapter II, Section 2.3, Table 2.9(E)(2) – Application of District Standards; Route 7 Scenic Overlay District (R7O); District Standards
3. Chapter III, Section 3.9 (B) – Outdoor Lighting; General Standards
4. Chapter III, Section 3.12 – Performance Standards
5. Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards
6. Chapter V, Section 5.4 (D)(1) – Conditional Use Review; Specific Review Standards; Conformance with the Town Plan

The application has also been reviewed under the following sections of the Charlotte Town Plan (Amended March 1, 2016):

7. Chapter 2, Section 2.1.1. – Goals for the Future of The Town; Objectives
8. Chapter 4, Section 4.4.6. – Charlotte Today; Special Features – Dark Night Sky
9. Chapter 5, Section 5.6.1. – Charlotte Tomorrow; Special Features; General Policies

IV. Findings

Based on the application, testimony, and other evidence, the Zoning Board of Adjustment makes the following findings:

1. The applicant seeks conditional use approval to construct a replacement home on the same site of a structure, which had since been demolished by intentional burning on May 7, 2017. Due to its location at 754 Ethan Allen Highway (US Route 7) within the **Route 7 Scenic Overlay District (R7O)**, the proposed project triggers a Conditional Use review.
2. Built in 1981, the former structure was a 3,037 square foot (not including the basement or garage) two-story, 4 bedroom house that protruded above a ridgeline, which partially screened it from the viewshed of US Route 7.
3. The proposed replacement structure will be a 6,200 square foot (not including the basement or garage) two-story, 3 bedroom house that will stand at the same 28 foot height as the former structure. The ~1,200 square foot garage of the replacement house will have an additional 1,200 square feet of unfinished attic space on its second story. The basement area of the house will comprise 3,867 square feet of unfinished space according to the plans.
4. The replacement house will be moved 8 feet to the south of the location of the former structure into a stand of trees, thereby making it slightly less visible from US Route 7. The applicant has stated that the house could be moved an additional 10 feet further to the south into the tree line. However it would be costly to do so. The applicant has proposed planting more trees to further screen the house.
5. The replacement structure will be an American Craftsman-style house intended to match the existing homes in the neighborhood. It is proposed to utilize a charcoal grey metal standing seam roof, and sage green siding that will blend with the surrounding landscaping. The house will be designed to exceed Energy Star performance ratings.

V. Conclusions of Law

1. **Chapter II, Section 2.3, Table 2.5 – Rural District (E)** requires the following dimensional standards:
 - a. Minimum Side/Rear/Front Setback: 50':
The frontage, rear, and all of the side setbacks setback requirements conform to the district standard.
 - b. Maximum Height 30' (Section 3.5):
The proposed 28 foot high replacement structure would not exceed the maximum height and will therefore conform to the district standard.
 - c. Maximum Building Coverage: 20% and Maximum Lot Coverage: 30%:
The existing building coverage is 0.337%. The proposed coverage would be increased to 0.547%. The only additional lot coverage is with the gravel driveway and turnaround area, which adds a negligible amount of area to the Lot Coverage. Both the proposed Building and Lot coverage conform to the district standard.

2. **Chapter II, Section 2.3, Table 2.9 – Route 7 Scenic Overlay District (E)(2)** stipulates that the proposed construction or expansion will have no undue adverse effect on the scenic resources of the area, and to the greatest extent possible that the following standards are met:
 - a. Structures are sited so that they do not protrude above a ridgeline;
 - The former structure did not conform to the district standard as it protruded above the ridgeline. The proposed replacement structure does not conform to the district standard as it will retain the same height and approximate location of the former structure.
 - b. Structures are sited in wooded areas or on field edges;
 - The former structure was built in the middle of the field. The proposed replacement structure will be shifted 8 feet to the south, further into a stand of trees.
 - c. Structures are sited in such a way that agricultural resources are not fragmented or otherwise impacted;
 - The proposed replacement structure does not further fragment agricultural resources.
 - d. New structures are sited in proximity to existing structures;
 - The proposed replacement structure is sited in proximity to the former structure.
 - e. Existing vegetation is retained and supplemented with new plantings compatible with existing vegetation to screen structures and minimize impacts on views from Route 7;
 - The stand of trees on the ridgeline would partially screen the proposed replacement structure. Additional plantings would need to be installed on the northern side of the tree stand to fully screen the new structure.

f. New driveways, roads and parking areas are sited away from open fields, follow existing contours to minimize the visual impact of cut and fill, are screened from Route 7, and sited in such a way that agricultural resources are not fragmented or otherwise impacted;

- The preexisting driveway and the proposed larger turnaround area to be constructed in front of the new structure would not further fragment agricultural resources, nor further impact the scenic viewshed from US Route 7.

g. Structures are designed and sited so that the visual impact is minimized through means such as:

1. Placing gable ends toward the road; The proposed design places the primary gables of the structure's eastern façade toward the US Route 7. However, where the garage gable of the former structure was oriented due eastward, the larger garage gable of the proposed structure would be oriented toward the southeast. The gable ends of the primary house on the northern and southern ends are consistent with the previous structure.
2. Avoiding long unbroken planes of building frontage; The proposed design avoids employing long unbroken planes of building frontage.
3. Use of colors and materials that are compatible with surrounding structures and natural features; The proposed design utilizes colors that may be compatible with surrounding features; slate grey, sage green siding, bronze windows, and grey/blue column bases.
4. Use of materials which minimize glare from reflective surfaces or siting so that glare is not visible from Route 7; The proposed placement and screening of the structure should mitigate any glare from the eastern façade.

3. **Chapter III, Section 3.9 (B) – Outdoor Lighting; General Standards** require the following:

- a. All outdoor lighting shall be kept to the minimum required for safety, security, and intended use, consistent with the character of the neighborhood in which it is located.
- b. Permanent outdoor lighting fixtures shall be designed to minimize glare, and shall not direct light upward or onto adjacent properties, roads, or public waters, or result in excessive lighting levels that are uncharacteristic of the surrounding neighborhood or area.

4. **Chapter III, Section 3.12 – Performance Standards**

No issues of concern have been identified regarding performance standards.

5. **Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards** stipulates that a proposed conditional use shall not result in an undue adverse effect on any of the following:
 - a. The capacity of existing or planned community facilities and services;
 - There is no known undue adverse effect.
 - b. Character of the area affected;
 - This is discussed above in “Chapter II, Section 2.3, Table 2.9(E)(2) – Application of District Standards; Route 7 Scenic Overlay District (R7O)”.
 - c. Traffic on roads and highways in the vicinity;
 - There is no known undue adverse effect.
 - d. Bylaws in effect;
 - There are no known non-conformance issues with other Town Bylaws.
 - e. The use of renewable energy resources;
 - There is no undue adverse effect on renewable energy resources.

6. **Chapter V, Section 5.4 (D)(1) – Conditional Use Review; Specific Review Standards; Conformance with the Town Plan** stipulates that the ZBA may consider the conformance to the policies and objectives of the Town Plan when imposing conditions to mitigate adverse impacts of a proposed development. With respect to the Town Plan, the sections that address the scenic view and the dark night sky are relevant to this application and are addressed in items 7 through 10 below.

7. **Town Plan: Chapter 2, Section 2.1.1. – Goals for the Future of The Town;** A stated goal in this chapter is; “To maintain and protect Charlotte’s rural character and heritage.” Objective 2 of the goal is stated to “Preserve the beauty of the landscape through the protection of open land, panoramic views of the Green Mountains, Lake Champlain and Adirondack Mountains, the dark night sky, and valuable natural resources.”

8. **Town Plan: Chapter 4, Section 4.4.6. – Charlotte Today; Special Features – Dark Night Sky;** This section of the Town Plan identifies the dark rural night sky as a special feature to be protected from light pollution originating from individual exterior lights. The plan recommends that “Current and new residents of Charlotte are encouraged to shield fixtures to focus exterior light downward and/or use motion-sensitive lights.”

10. **Town Plan: Chapter 5, Section 5.6.1. – Charlotte Tomorrow; Special Features; General Policies;** At least four general policies in this section of the Town Plan support protecting the night sky and the scenic qualities of the Town’s vistas. In particular, the plan recommends that outdoor lighting be designed to minimize light pollution and impacts on neighboring properties, citing the [Chittenden County Outdoor Lighting Guide](#). Furthermore the plan states that “The importance of the scenic qualities along the northern portion of Route 7 warrants the special treatment and protection provided by the Route 7 Scenic Overlay District.”

V. Decision and Conditions

Motion to approve the Christina and Matt Moulton application as presented ([ZBA-17-23-CU](#)) subject to the following conditions:

1. The project will not exceed three bedrooms within the house, basement, and garage.
2. The height of the proposed structure shall not exceed 28 feet as stated in the application.
3. Exterior lighting shall be kept to a minimum and permanent outdoor lighting fixtures shall be downward-shielded and will not direct light upward, onto adjacent properties, or be visible from US Route 7, as per Section 3.9 of the Regulations and Section 4.4.6 of the 2016 Town Plan.
4. To effectively screen the entire replacement house from the scenic viewshed of US Route 7, trees will be planted adjacent to the current stand of trees upon the ridgeline, which partially screened the former structure. The plantings will be a mix of coniferous and deciduous trees that are 10-12 feet high and would be expected to grow to the height of the current stand of trees. The new screening trees will be planted within 12 months of the date of the approval of this decision. If the trees are not installed prior to the issuance of the Certificate of Occupancy then a \$5,000 escrow account will be established with the Town Clerk of the Town of Charlotte. The escrow account will be held until the required trees are planted and approved by the Zoning Administrator.

Vote: 5 Ayes. 0 Absent.

Dated at Charlotte, Vermont this 24th day of May, 2017.



Frank Tenney, Chairman

This decision may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the latest date of signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Additional Regulations and Permitting

The owner and his/her representatives shall abide by the practices in the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control (2006) as necessary to ensure that sediment and sediment laden water does not leave the project parcel. Contact 802.540.1748 for a hard copy or you may visit: <http://dec.vermont.gov/watershed/stormwater>.

There may be additional State of Vermont and / or federal permits or approvals needed for the proposed development or use. The applicant may contact the Agency of Natural Resources Permit Specialist at 802.477.2241 for further information.

ZBA-17-23-CU Decision - **Errata**

On the Moulton-Sweeney Designbuild, LLC decision; **ZBA-17-23-CU** that was entered into the Town of Charlotte Land Records, *Volume 228, Pages 617-622*;

Under I. Introduction and Procedural History:

It is stated that the property owners (of 754 Ethan Allen Highway) are Christina and Matt Moulton. Christina Metropoulos has changed her name to Christina Moulton. The property is actually owned by METROPOULOUS EVAN TTE, METROPOULOS CHRISTINA IRREVOCABLE TRUST.

Under V. Conclusions of Law

It is stated under 1b. that the Maximum Height for the Rural District is 30'. The Maximum Height for the Rural District (RUR) is actually 35' according to Chapter II, Section 2.3, Table 2.5(E) of the 2016 Charlotte Land Use regulations.

The Zoning Board of Adjustment's decision stands.

Respectfully submitted on 26 May 2017.

Daryl Benoit

A handwritten signature in black ink, appearing to be 'DAB' or similar initials, written in a cursive style.

Zoning Board of Adjustment Staff